

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED

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U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA,

v.

RICHARD M. SCRUSHY,

Defendant.

CR-03-BE-0530-S

Notice

Comes now the United States, by and through the United States Attorney for the Northern District of Alabama, and provides below a description of certain crimes, wrongs or acts by the defendant which the government may seek to introduce at trial. It is the government's position that this evidence is inexorably intertwined with and intrinsic to the charged schemes. See United States v. Fortenberry, 971 F.2d 717 (11th Cir. 1992) and United States v. Smith, 122 F.3d 1355, 1359 (11th Cir. 1997). In an abundance of caution, however, the government provides notice of this evidence to the defendant in the event the Court finds that such evidence is only admissible pursuant to Federal Rule of Evidence 404(b). United States v. Prosperi, 201 F.3d 1335, 1346-1348 (11th Cir. 2000), and United States v. Tokars, 95 F.3d 1520, 1537 (11th Cir. 1996). The government may present evidence that:

1. Defendant Scrushy had the auditing firm of Peat Marwick Mitchell & Co. (now KPMG) fired when it requested but could not find support for financial projections for Amcare Inc., HealthSouth's predecessor.
2. At the direction of defendant Scrushy, HealthSouth's accounting staff employed a number of accounting gimmicks to bolster earning reports. These included gimmicks associated with booking acquisitions and capitalizing expenses. These practices were eventually curtailed by the SEC, at which point, at the direction of defendant and his chief operating officers the

202

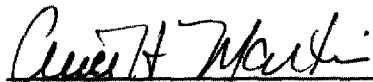
accounting staff began to inflate the numbers using the completely fictitious and improper methods as described in the Indictment.

3. Scrushy caused HealthSouth to lend money to a company named Caretenders (later known as Almost Family). In or around 1993, Scrushy and others caused HealthSouth to convert its loan to Caretenders into equity in Caretenders. This caused HealthSouth to occupy a lower position in the priority scheme and thus exposed HealthSouth to greater risk. In exchange for that concession by HealthSouth, Scrushy received stock options in Caretenders.

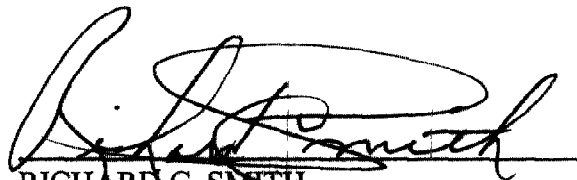
4. Defendant Scrushy caused HealthSouth to purchase certain equipment from G.G. Enterprises ("GGE"), a company owned by Scrushy's parents, at above market price. Because of Scrushy's actions, HealthSouth had to pay \$7.9 million to the United States to settle a Medicare fraud claim related to HealthSouth's purchases from GGE.

5. Defendant Scrushy improperly used HealthSouth resources for personal purposes. These included, but are not limited to: company aircraft; helicopter; automobiles; print design and related resources for Leslie Scrushy's business; landscaping resources for work at the Longleaf property; the use of employees to help manage and supervise the construction of defendant's lake house; use of HealthSouth facilities and employees to perform accounting services for defendant Scrushy's personal investments such as 21st Century Health Ventures, LLC; use of HealthSouth facilities and employee time to support operations of defendant Scrushy's band called Dallas County Line; causing buildings and other features to be named for defendant Scrushy as a condition of HealthSouth donations; and the sale of land adjacent to Longleaf to Scrushy at discount.

6. Defendant Scrushy made false and misleading statements in testimony given to the SEC on March 14, 2003.



ALICE H. MARTIN
United States Attorney
1801 4th Ave. N.
Birmingham, AL, 35203
(205) 244-2210; (205) 244-2182 (fax)



RICHARD C. SMITH
Deputy Chief, Fraud Section
Department of Justice, Criminal Division
1400 New York Avenue N.W. 20530
(202) 514-7023; (202) 514-7021 (fax)

Certificate of Service

The United States certifies that a copy of the aforesaid has been served by mailing the same by First Class United States Mail on June 30, 2004, to the defendant's attorneys of record:

Thomas V. Sjoblom
Abbe David Lowell
Chadbourne & Parke, LLP
1200 New Hampshire Ave. N.W.
Washington, D.C. 20036
(202) 974-5600; (202) 974-5602 (fax)

Donald Watkins
2170 Highland Ave., Ste 100
Birmingham, AL 35205
(205) 558-4665; (205) 558-4670 (fax)

H. Lewis Gillis
Raymond L. Johnson, Jr
Thomas, Means, Gillis & Seay P.C.
505 20th St. N.
Birmingham, AL 35237-0447
(205) 328-7915; 214-6160 (fax)

Arthur W. Leach
2310 Marin Drive
Birmingham, AL, 35243
(404) 786-6443; (205) 824-0321 (fax)


COLLEEN A. CONRY